

Amendment and Response
Applicants: Bruce S. Ellingboe et al.
Serial Number: 09/963,878

Attorney Docket: CV0290US

REMARKS

Claims 1 and 3- 12 are pending. Claim 2 is canceled. Claims 1 and 3-5 are amended. Claims 6-12 are original. The application as filed supports all of the claims.

Rejections Under 35 U.S.C. 103

Claims 1-4 and 6-12 are rejected under 35 U.S.C. 103(a) as unpatentable over Dennehey in view of Abbott. These references do not render obvious the presently rejected claims, including currently amended claims 1, 3 and 4. Dennehey has no structure that oxygenates venous blood and transfers oxygenated venous blood to the patient, as required by claim 1 and the claims dependent thereon. The Dennehey blood processing system has no need for a blood oxygenator and a blood oxygenator would serve no purpose in the Dennehey system, because the Dennehey system processes a donor's blood and returns the processed blood to the donor without compromising the function of the donor's cardiopulmonary system (col. 16, line 25 – col. 20, line 5). By contrast, the Abbott cardioplegia delivery system delivers cardioplegic solution to the heart during open heart surgery and absolutely requires an oxygenator to supply the function of the patient's cardiopulmonary system. There is no suggestion in Dennehey or Abbott or in any of the other art of record to combine the teachings of these two references in the manner the Examiner proposes.

Neither Dennehey, Abbott nor any of the other references of record, discloses a disposable assembly further comprising a reservoir having an inlet connected to receive venous blood from the patient through a second of the positioned tubing lines or a component interface region further comprising a flow control clamp for controlling the flow of venous blood through the second tubing

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line to the reservoir, as required by currently amended claim 1 and the claims dependent thereon.

The Examiner states that various claim limitations recite functions of the claimed extracorporeal blood perfusion system and refuses to give them patentable weight. Applicants respectfully submit that, with the above amendments, the claims recite sufficient structure for all claimed features.

Applicants respectfully submit that, with the present amendments to claims 1, 3 and 4, claims 1-4 and 6-12 are seen to define over the cited references.

Claim 5 is rejected under 35 U.S.C. 103(a) as unpatentable over Dennehey in view of Abbott, in view of Plotkin. These references do not render obvious claim 5 as currently amended and as dependent on currently amended claim 1. Applicants repeat the discussions above regarding Dennehey and Abbott as equally pertinent. There is no suggestion in Abbott, Dennehey or Plotkin or in any other art of record to combine these reference teachings and Plotkin does not supply for the deficiencies of the other two references. Applicants respectfully submit that, with the present amendments to claims 1 and 5, claim 5 is seen to define patentably over the cited references.

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CONCLUSION

Applicants respectfully submit that with the current amendments to the claims all of the pending claims are allowable over the art of record. Should any minor matters remain prior to the issuance of a notice of allowance, Applicants request the Examiner to telephone the undersigned attorney to reach prompt resolution thereof.

If any additional fees are due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 16-2312. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

Date: 12/3/04

By

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